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IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE SIDE

WRIT PETITION NO.7169 of 2006

Smt. Chhaya Dharmadatta Patil & Ors..Petitioners

Versus

Nalloa Sopara Municipal Council & Ors..Respondents

Mr. L.M. Acharya, for the Petitioners
Mr. P.S. Dani, for respondent No.1.
Ms. Neeta P. Karnik, for respondent No.6.
Mrs. Jyoti S. Pawar, AGP for Respondent No.5.

CORAM : F.I. REBELLO &
R.M.SAVANT, JJ.
DATED : 6TH MARCH, 2007.

P.C.

. The Petitioner No.1 is a Councillor. Petitioner Nos. 2 and 3 are residents in the area of respondent No.1. In the first instance the prayers sought for is to initiate action under Section 311 of the Maharashtra Municipalities Act, 1965. Section 311 would be attracted only in the event something has to be done by respondent No.1 which requires the sanction, approval or consent of the State Government. Nothing has been pointed out to us as to what act required the sanction, approval or consent of the State Government which the respondent No.1 has not taken. Considering that in our opinion the relief as prayed for presently cannot be granted.

2. In so far as prayer clause (b) is concerned, the issue pertains to the resolution whereby the water tax is charged per house instead of per number of water connection. It is pointed out that the water tax is being charged per house instead of per number of water connections. Nothing

has been brought before us to show firstly that such a resolution is contrary to law. Even otherwise if a resolution is contrary to law and/or illegal it will always be open to the petitioner to move under Section 300A of the Municipalities Act to challenge the said resolution. Considering that the petitioners have an efficacious remedy in our opinion this would not be a fit case for us to exercise our extra ordinary jurisdiction. In so far as prayer clause (c) is concerned, the contention urged is that the respondent No.7 has agreed to grant sanction 100% aid in the matter of water supply scheme and respondent No.7 is not complying with the said directions. It is for the respondent No.1 to take up the matter with the respondent No.7 and if the respondent No.1 so takes up the matter the respondent No.7 to take decision according to law. With the above observation, petition disposed of.

(**F.I.REBELLO**, J)

(**R.M.SAVANT,J**.)